

Department of Energy

§ 603.610

This approach may be useful, for example, if a commercial firm that is a participant will not accept an agreement with all of the post-award requirements of an expenditure-based award. Before using a fixed-support arrangement for that firm's portion of the project, the agreement must meet the criteria in § 603.305.

ACCOUNTING, PAYMENTS, AND RECOVERY OF FUNDS

§ 603.570 Determining milestone payment amounts.

(a) If the contracting officer selects the milestone payment method (see § 603.805), the contracting officer must assess the reasonableness of the estimated amount for reaching each milestone. This assessment enables the contracting officer to set the amount of each milestone payment to approximate the Federal share of the anticipated resource needs for carrying out that phase of the RD&D effort.

(b) The Federal share at each milestone need not be the same as the Federal share of the total project. For example, the contracting officer might deliberately set payment amounts with a larger Federal share for early milestones if a project involves a start-up company with limited resources.

(c) For an expenditure-based TIA, if the contracting officer establishes minimum cost sharing percentages for each milestone, those percentages should be indicated in the agreement.

(d) For a fixed-support TIA, the milestone payments should be associated with the well-defined, observable, and verifiable technical outcomes (*e.g.*, demonstrations, tests, or data analysis) that are established for the project in accordance with §§ 603.305(a) and 603.560(a).

§ 603.575 Repayment of Federal cost share.

In accordance with the Energy Policy Act of 2005 (Public Law 109-58), section 988(e), the contracting officer may not require repayment of the Federal share of a cost-shared TIA as a condition of making an award, unless otherwise authorized by statute.

Subpart F—Award Terms Affecting Participants' Financial, Property, and Purchasing Systems

§ 603.600 Administrative matters.

This subpart addresses “systemic” administrative matters that place requirements on the operation of a participant's financial management, property management, or purchasing system. Each participant's systems are organization-wide and do not vary with each agreement. Therefore, a TIA should address systemic requirements in a uniform way for each type of participant organization.

§ 603.605 General policy.

The general policy for an expenditure-based TIA is to avoid requirements that would force participants to use different financial management, property management, and purchasing systems than they currently use for:

(a) Expenditure-based Federal procurement contracts and assistance awards in general, if they receive them; or

(b) Commercial business, if they have no expenditure-based Federal procurement contracts and assistance awards.

§ 603.610 Flow down requirements.

If it is an expenditure-based award, the TIA must require participants to provide the same financial management, property management, and purchasing systems requirements to a subrecipient that would apply if the subrecipient were a participant. For example, a for-profit participant would require a university subrecipient to comply with requirements that apply to a university participant and would require a GOCO or FFRDC subrecipient to comply with standards that conform as much as practicable with the requirements in the GOCO/FFRDC procurement contract. Note that this policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA and not to participants' purchases of goods or services needed to carry out the RD&D.